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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

CP

DEPUTY

Attorneys for Plaintiff,

Tuni & G, a California General Partnership

UNITED STATES DISTRICT COURT**SOUTHERN DISTRICT OF CALIFORNIA**

TUNI & G, a California General Partnership

CASE NO.

08 CV 0410 BTM JMAPlaintiffs,**COMPLAINT for:**

v.

1. **FEDERAL TRADEMARK INFRINGEMENT;**
2. **TRADEMARK INFRINGEMENT - CALIFORNIA COMMON LAW;**
3. **UNFAIR BUSINESS PRACTICE CAL. BUS. & PROF. CODE §§ 17200 et seq.**

SPENCER GIFTS, LLC, a Delaware Limited Liability Company; SPENCER GIFTS HOLDING, LLC, a Delaware Limited Liability Company; SPENCER GIFTS ONLINE, LLC, a Delaware Limited Liability Company; and DOES 1 through 10, inclusive,

Defendants.

PLAINTIFF, TUNI & G, a California Partnership (hereinafter "Plaintiff"), hereby submits its Complaint for damages and relief against SPENCER GIFTS, LLC, a Delaware Limited Liability Company; SPENCER GIFTS HOLDING, LLC, a Delaware Limited Liability Company; SPENCER GIFTS ONLINE, LLC, a Delaware Limited Liability Company; and DOES 1 through 10, inclusive, (hereinafter collectively "Defendants") and alleges as follows:

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1 **GENERAL ALLEGATIONS**

2 **THE PARTIES**

3 1. Plaintiff, TUNI & G, is a California General Partnership located at 10755 F
4 Scripps Poway Parkway, Ste. 515, San Diego, California 92131.

5 2. Defendant, SPENCER GIFTS, LLC, is a Delaware Limited Liability Company,
6 doing business in San Diego, California, and whose corporate headquarters are located at 6826
7 Black Horse Pike, Egg Harbor Township, New Jersey 08234.

8 3. Defendant, SPENCER GIFTS HOLDING, LLC, is a Delaware Limited Liability
9 Company, doing business in San Diego, California, and whose corporate headquarters are located
10 at 6826 Black Horse Pike, Egg Harbor Township, New Jersey 08234.

11 4. Defendant, SPENCER GIFTS ONLINE, LLC, is a Delaware Limited Liability
12 Company, doing business in San Diego, California, and whose corporate headquarters are located
13 at 6826 Black Horse Pike, Egg Harbor Township, New Jersey 08234.

14 **JURISDICTION AND VENUE**

15 5. This is a civil action arising under the Lanham Act. Accordingly, this court has
16 federal question jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121
17 and 28 U.S.C. §§ 1331 and 1338 (a) and (b). This court has supplemental jurisdiction over the
18 state law claims asserted in this complaint.

19 6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b). The actions
20 complained of herein are occurring in this district.

21 **ALTER EGO**

22 7. Plaintiff is informed and believes, and on that basis alleges, that Defendants
23 were at all times relevant the partners, officers, agents, assignees, successors-in-interest, co-
24 conspirators, principals, alter egos, or employees of each other or were otherwise responsible for,
25 contributed to, or participated in the acts and omissions alleged herein, and thereby incurred
26 liability therefore.

27 8. Among other things, Plaintiff is informed and believes, and on that basis alleges
28 that Defendants among other things (1) commingled funds and other assets; (2) diverted

1 corporate funds between entities or to other than corporate purposes; (3) treated corporate assets
2 as personal assets; (4) failed to observe corporate formalities; (5) failed to maintain an arms-
3 length relationship with the corporation or between entities; and (6) failed to maintain adequate
4 capitalization. Adherence to the fiction of the separate existence of the Defendants would permit
5 an abuse of the corporate privilege, sanction fraud, and promote injustice.

6 BACKGROUND

7 9. Plaintiff is the owner of the registered trademark "DON'T YA WISH YOUR
8 MOMMY WAS HOT LIKE MINE?" which was filed on November 29, 2005, and registered on
9 October 17, 2006, and holds U.S. Registration No. 3,158,551, in International Class 025 for use
10 in conjunction with adult, child and infant clothing, namely, hats, socks, tank tops, t-shirts, long
11 sleeve shirts, short sleeve shirts, hooded shirts, sweat shirts, sweat pants, relaxed pants, women's
12 clothing, namely maternity shirts, infant and toddler clothing, namely one-piece clothing
13 ("Registered Mark"). Plaintiff also owns the registered trademark "TUNI & G" which was filed
14 on January 8, 2006, and registered on January 23, 2007, and holds U.S. Registration No.
15 3,201,222, in International Class 025 for use with the same items as those listed above. The
16 "TUNI & G" mark consists of a version of the Plaintiff's names. "Tuni" is the commonly used
17 name of the Plaintiff, Mary Antionette Gazale, and "G" is the commonly used name of the
18 Plaintiff, Ghada Benitez. Both marks enjoy substantial recognition as brands of Plaintiff.

19 10. On or about August, 2005, Plaintiff began using the marks "DON'T YA WISH
20 YOUR MOMMY WAS HOT LIKE MINE?" and "TUNI & G" in connection with its Tuni & G,
21 "Mommy and Me" adult, child and infant clothing and related products. Plaintiff offers its
22 products for sale on its website located at <http://www.tuniandg.com>. Additionally, Plaintiff's
23 goods are offered for sale at numerous retail establishments.

24 11. The Plaintiff's Registered Mark identifies the Plaintiff in the marketplace, where
25 Plaintiff has continuously used the mark in the clothing industry throughout the United States,
26 promoting its brands in connection with its products through packaging and labels,
27 advertisements, and web site usage.

28 ///

12. As a result of the unique and distinctive nature of the Plaintiff's Registered Mark, and the extensive display, sales, promotion and use of the mark by the Plaintiff, the mark is synonymous with the Plaintiff as a brand of clothing in the minds of the purchasing public. To further strengthen its brand, Plaintiff uses the "TUNI & G" mark in connection with the "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" mark, by requiring advertisers and promoters to display Plaintiff's clothing brand "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" with the following statement "TUNI & G's 'DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?' t-shirts." The use of the Plaintiff's Registered Mark is indicative to the clothing industry and to customers that items bearing the mark originate from, or are sponsored or approved by, the Plaintiff.

PRESS AND NOTORIETY

13. Plaintiff's promotions, advertisements and products have appeared in numerous magazines and newspaper articles, internet cite postings; television news and television entertainment shows, radio news, and have been featured with many celebrities. See a sampling of Plaintiff's Press Releases attached herein as Exhibit 1. In fact, numerous celebrities have been photographed wearing Plaintiff's products and have brought much fame to the Plaintiff's Tuni & G brand and the Registered Mark. Plaintiff has further required all advertisers and featurers of its products to list the "TUNI & G" mark in connection with all advertised or featured products, thus connecting ownership of its brand with its products including those containing the "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" mark. Moreover, a majority of press focusing on Plaintiff, highlight the fact that Plaintiff is well known for its "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" line. Specifically, the Plaintiff's products which bear the Registered Mark have been featured on the following:

a. Magazine, Newspaper, Print:

The Plaintiff's "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" products have been featured in numerous magazine and newspaper articles and have become widely known. The following represents only a sample of such featured articles: 1) People Magazine (numerous issues reaching 20,250,000 readers weekly); 2) OK! Magazine (reaching

6,000,000 readers weekly); 3) Who Magazine; 4) Jezebel Magazine (reaching 100,000 readers monthly; 5) El Especial Magazine; 6) Pregnancy Magazine (reaching 1,125,000 readers monthly); 7) SRCA Newsletter; 8) San Diego Magazine; 9) Earnshaw's Magazine; 10) San Diego Business Journal; 11) Globeandemail News; 12) San Diego Metro News (numerous editions); 13) The Rancho Santa Fe Review; 14) Del Mar Village Voice; and 15) Carmel Valley News.

b. Online Press:

Additionally, Plaintiff has received an enormous amount of internet press featuring the "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" products. Such products have been featured on more than fifty (50) websites. The following represents a sample of such internet sites which have featured the Plaintiff's products: 1) etonline.com; 2) people.com; 3) cnn.com; 4) msnbc.com; 5) foxnews.com; 6) shefindsmom.com; 7) jeffandjer.com; 8) sandiegometro.com; 9) modernmom.com; 10) prweb.com; 11) globeandmail.com; 12) celebritybabies.com; 13) eonline.com; 14) babychic101.com; 15) celebrityrumors.com; 16) starmagazine.com; 17) about.com; 18) mommieswithstyle.com; 19) okmagazine.com.au; 20) momblognetwork.com; 21) dotspotter.com; 22) classymommy.com; 23) nbcсандiego.com; 24) kusi.com; 25) cbs8.com; 26) 10news.com; and 27) fox6.com. The referenced websites receive internet visits ranging upwards of 120,000,000 visits. The Plaintiff and their Registered Mark have been so widespread on the internet that a Google Alert was issued regarding Jennifer Lopez's pregnancy in connection with the purchase of Tuni & G products which contain the Registered Mark.

c. Television/Radio Press:

Furthermore, the Plaintiff's "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?" products have enjoyed features on television news and entertainment shows as well as live radio broadcasts. The following represents a sample of such television and radio features: 1) Channel 10 News San Diego (numerous telecasts); 2) E News!; 3) NBC San Diego; 4) Univision LA; 5) ABC; 6) CBS; 7) Channel 9 News San Diego; 8) Fox 6 News San Diego; 9) KTLA News; 10) STAR 94.1 Radio; 11) Magic 92.5 Radio; and 12) Star 93.3 New York Radio.

1 **d. Celebrity Press:**

2 Finally, the Plaintiff's "DON'T YA WISH YOUR MOMMY WAS HOT LIKE MINE?"
 3 products have achieved substantial fame and notoriety by celebrities who have purchased or
 4 received these products as gifts from friends and family. The following represents a sample of
 5 these celebrities: 1) Jennifer Lopez (as seen in People Magazine, people.com, cnn.com, celebrity-
 6 babies.com, babyrazzi.com, and other worldwide web features); 2) Britney Spears (as seen in
 7 OK! Magazine, tmz.com, and eonline.com); 3) Patrick Dempsey (as seen on etonline.com,
 8 jewelsandpinstripes.com, and celebrity-babies.com); 4) Matt Damon (purchased by celebrity
 9 friend); 5) Paris Hilton/Nicole Richie (as seen in People Magazine, people.com, etonline.com,
 10 accesshollywood.com, msnbc.com, babychic101.com, starmagazine.com, celebrityrumors.com,
 11 and other worldwide web features); 6) Felicity Huffman (as seen in OK! Magazine); 7) Jamie
 12 Pressley (purchased by a friend for her baby shower); 8) Tori Spelling; 9) Trista Sutter (baby
 13 shower); 10) Ellen Degeneres; and 11) Halle Berry (purchased). Due to such widespread
 14 publicity in all of the above venues, there can be no doubt that Plaintiff's Registered Mark has
 15 become synonymous with Plaintiff and the Tuni & G brand.

16 **INTENTIONAL INFRINGEMENT**

17 14. On or about July 2007, Plaintiff became aware that Defendants were selling
 18 products in the same marketplace as Plaintiff (both online and retail), via the use of the
 19 confusingly similar mark "DON'T YOU WISH YOUR MOMMY WAS HOT LIKE MINE?"
 20 (hereinafter referred to as the "Infringing Mark"). Defendants' mark is identical to the Plaintiff's
 21 mark except for the spelling change of the term "YA" to "YOU." Defendants produce a product
 22 very similar to Plaintiff and includes an infants one piece outfit "onesie" with the Infringing
 23 Mark written on the front of the outfit ("Infringing Product"), attached herein as Exhibit 2.

24 15. Immediately after becoming aware of Defendants' Infringing Mark, Plaintiff
 25 raised strong objections to Defendants' use and demanded they cease such use. Initially,
 26 Defendants informed Plaintiff that they would cease ordering more of the Infringing Product in
 27 order to phase out such usage. However, Defendants recently informed Plaintiff that they had no
 28 intention of ceasing the ordering or sale of the Infringing Product and in fact intend to continue

1 purchasing and selling the Infringing Product.

2 16. Based upon this blatant disregard of Plaintiff's trademark rights, and the fact that
3 Defendants have been on actual notice of Plaintiff's trademark rights at least as early as July
4 2007, it is quite clear that Defendants' infringement is willful. Defendants' activities were
5 undertaken with the full knowledge of the Plaintiff's trademark rights and with the purpose and
6 intent of trading upon the goodwill, substantial press and notoriety associated with Plaintiff and
7 Plaintiff's well known mark.

8 17. By unlawfully utilizing the Plaintiff's mark to promote the sale of the Infringing
9 Product, Defendants have falsely designated and/or represented that the Infringing Product is
10 affiliated with, or endorsed, sponsored, or authorized by Plaintiff. The unauthorized use has
11 created unfair competition to the Plaintiff's business and has interfered with the provision and
12 sales of Plaintiff's goods.

13 18. Plaintiff is informed and believes that it has been damaged by the Defendants' use
14 of the Infringing Mark and Infringing Product, that a likelihood of confusion exists, and actual
15 confusion by consumers and others exists as to the source of the goods and services offered.

16 19. As a result of the Defendants' intentional acts, the Plaintiff has suffered
17 damages, including but not limited to actual damages, compensatory damages, and attorneys'
18 fees.

19 COUNT I.

20 FEDERAL TRADEMARK INFRINGEMENT

21 (Against all Defendants)

22 20. Plaintiff hereby incorporates by reference and realleges each of the allegations
23 contained in paragraphs 1 through 19 above, as though fully set forth herein.

24 21. The Registered Mark is a federally registered trademark. Plaintiff is the sole
25 owner and senior user of the Registered Mark used with clothing in International Class 025.

26 22. Defendants' conduct, as described above, constitutes the use in commerce of
27 the Registered Mark, and/or confusingly similar marks, and is likely to result in confusion among
28 consumers.

23. Plaintiff has not consented to Defendants' use of the Infringing Mark or Infringing Product and Defendants have been on actual and constructive notice that Plaintiff is the owner and senior user of the Registered Mark.

24. Defendants' use of the Registered Mark and/or confusingly similar marks was undertaken with the intent to confuse and deceive the public and with malicious intent to oppress and harass Plaintiff.

25. Accordingly, Plaintiff has been and continues to be irreparably damaged by Defendants' actions. Defendants' conduct is therefore in violation of 15 U.S.C. § 1114(1) and Plaintiff is entitled to injunctive relief and damages as may be proven at trial.

COUNT II.

TRADEMARK INFRINGEMENT - CALIFORNIA COMMON LAW

(Against all Defendants)

26. Plaintiff hereby incorporates by reference and realleges each of the allegations contained in paragraphs 1 through 25 above, as though fully set forth herein.

27. Defendants' conduct, as described above, including their use of the Registered Mark and/or confusingly similar marks has and is likely to cause confusion, or to cause mistake or to deceive the consuming public. Defendants' unfair methods of competition and unfair, deceptive and misleading trade practices will continue, and Plaintiff will continue to suffer irreparable damages from the Defendants' conduct, unless the Defendants are restrained by this Court.

28. Accordingly Defendants' conduct constitutes common law trademark infringement and Plaintiff is entitled to injunctive relief and damages as may be proven at trial.

COUNT III.

UNFAIR BUSINESS PRACTICE

CAL. BUS. & PROF. CODE §§ 17200 et seq.

(Against all Defendants)

29. Plaintiff hereby incorporates by reference and realleges each of the allegations contained in paragraphs 1 through 28 above, as though fully set forth herein.

1 30. Defendants' conduct alleged above constitutes unfair competition and unfair
2 business practices in violation of Cal. Bus. & Prof. Code §§ 17200 et seq.

3 31. Plaintiff has been and continue to be damaged by Defendants' acts of unfair
4 competition and unfair business practices.

5 32. Therefore, pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq., Plaintiff is
6 entitled to an order requiring that the Defendants cease such unlawful business practices and an
7 award restoring to Plaintiff any monies or profits that Defendants have wrongfully acquired or
8 caused to be lost as a result of their violations of Cal. Bus. & Prof. Code §§ 17200., willful,
9 oppressive, malicious and fraudulent actions.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands a jury trial and judgment in its favor and against Defendants, jointly and severally, as follows:

1. For preliminary and permanent injunctive relief as provided by 15 U.S.C. § 1118, and California Business and Professions Code § 17203, preventing Defendants, their agents, *servants, employees, attorneys, representatives, successors and assigns, and all persons, firms or corporations* acting in active concert or participation with any of Defendants from:

A. directly or indirectly infringing upon any of Plaintiff's Registered Marks in any manner, including but not limited to use of the confusingly similar designation, "DON'T YOU WISH YOUR MOMMY WAS HOT LIKE MINE?" mark in connection with products sponsored by or affiliated with Defendants;

B. consenting to or otherwise allowing any distributor selling any of Defendants' products from directly or indirectly infringing upon any of Plaintiff's Registered Marks in any manner, including but not limited to use of the confusingly similar designation "DON'T YOU WISH YOUR MOMMY WAS HOT LIKE MINE?" mark in connection with products sponsored by or affiliated with Defendants;

C. using any mark (including but not limited to the mark "DON'T YOU WISH YOUR MOMMY WAS HOT LIKE MINE?"), emblems, symbols, terminology, trade dress or designations which tend to falsely represent, or which are likely to confuse, mislead or deceive purchasers, Defendants' customers, and/or members of the public that the unauthorized goods an/or products marketed, offered and/or advertised by Defendants originate from Plaintiff or that any such goods and/or products are sponsored, approved, and/or licensed by, and/or associated, connected or affiliated with Plaintiff;

D. engaging in any conduct that tends falsely to represent, or is likely to confuse, mislead or deceive purchasers, customers, and/or members of the public to believe or conclude that the actions of Defendants are sponsored, approved, and/or licensed by, and/or connected or affiliated with Plaintiff.

E. otherwise competing unfairly with Plaintiff.

2. For an award of damages against Defendants in the amount of Defendants' profits plus the actual damages sustained by Plaintiff for Defendants' acts of trademark infringement and unfair competition in an amount as shall be shown by the evidence.

3. As provided by 15 U.S.C § 1116 and 15 U.S.C § 1117, for an award to Plaintiff and against Defendants, jointly and severally, of injunctive relief and damages in the amount or amounts of three times Defendants' profits and damages sustained by Plaintiff, plus Plaintiff's attorneys' fees and expenses on those claims asserted pursuant to 15 U.S.C. § 1125(a).

4. As provided by California Business and Professions Code § 17203, an order restoring to Plaintiff any monies or profits that Defendants have acquired and/or caused to be lost as a result of Defendants' violations of California Business and Professions Code § 17200, et seq.

5. For an award against all Defendants based on their inducing trademark infringement, for all damages resulting from the infringing actions of Defendants' distributors in an amount as shall be shown by the evidence.

6. For an award against all Defendants based on their contributory trademark infringement, for all damages resulting from the infringing actions of Defendants' distributors in an amount as shall be shown by the evidence.

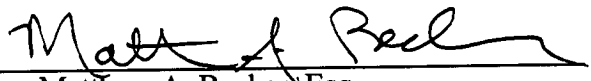
7. For an award to Plaintiff for its attorneys' fees, allowable costs; and

8. Such other and further relief as to the Court may seem just and proper.

Dated: March 4, 2008

Respectfully submitted,

THE LAW OFFICE OF MATTHEW A. BECKER, PC

By: 
Matthew A. Becker, Esq.
Attorney for Plaintiff,
Tuni & G, a California General Partnership



1/07 Press Release Titled "Don't ya wish your mommy was hot like mine?" hits the Red Carpet"
(PRWEB.com 949,799 monthly visits) regarding Tuni & G participating in the Pre-Oscar Hollywood Baby Gift Baskets and gets massive national attention:
<http://www.prweb.com/releases/2007/1/prweb501021.htm>

Don't Ya Wish Your Mommy Was Hot Like Mine?" Hits The Red Carpet

Tuni & G Mommy and Me Clothing Line Participates in the 2007 Pre-Oscar Hollywood Baby Breakfast Club Gift Baskets

San Diego, CA (PRWEB) January 31, 2007 -- Tuni & G, the unique and interactive mommy and me clothing line known for its sassy phrases ("Don't ya wish your mommy was hot like mine?", "Don't ya?") is proud to announce their participation in the 2007 Pre-Oscar Hollywood Baby Breakfast Club Gift Baskets. Loved by moms all over Southern California, Tuni & G's creative statement apparel has become a favorite of celebrity moms and kids in Hollywood, and was recently invited by well known celebrity stylist Jayneoni to participate in the first ever Pre-Oscar Gift Basket for Babies and Big Kids of Celebrities.

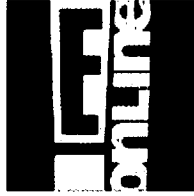
Tuni & G is one of Hollywood's rising stars, with celeb moms and babies proudly wearing their "Queen" tee with the coordinating "Princess" tee or "Prince" onesie, or the "Rock 'n Roll" set, featuring a baby's shirt that reads "My Mom Rocks" and mom's shirt responding "My Baby Rolls."

"There is no other clothing line quite like ours - we want moms to have fun dressing up with their precious little ones," said co owner Tuni Gazale.

Tuni & G offers mommy and me sets, adult, youth, toddler and infant clothing, maternity wear and infant hats, with fun statements and symbols. Using nailheads and/or rhinestone embellishments to dress up the high quality casual shirts and pants, Tuni & G's apparel line is available with English and Spanish statements.

And now, with support from celebrity stylist Jayneoni, Tuni & G is going to Hollywood for the Oscars. "We are so excited to have the opportunity to get our distinctive coordinating mommy and me shirts in the hands of these amazingly talented moms," says G.G. Benitez, co-owner.

Tuni & G was created in 2005 by two best friends, Tuni Gazale ("Tuni") and G.G. Benitez ("G"), mothers of three children each. The line is available in exclusive boutiques across the country, as well as online at www.TuniandG.com



4/9/07 Eonline.com (5,433,378 monthly visits) runs story about Britney Spears purchasing Tuni & G's don't ya wish your mommy was hot like mine?" tees for her boys:

<http://www.eonline.com/gossip/planetgossip/detail/index.jsp?uuid=8d7c1fe9-7077-43e3-bea9-e984a0a69b1e>

Britney's Buying Bonanza

Is Robertson Boulevard the road to recovery for Hollywood celebs?

A few days after Lindsay Lohan spent some post-rehab time on the famed Los Angeles shopping street, Britney Spears did the same just yesterday.

Spears spent about \$2,000 on herself at Lisa Kline while picking up another \$2,000 worth of goodies for her sons, **Sean Preston** and **Jayden**.

She scooped up some Rachel Weissman hair clips and a stretchy headband, a green Moses basket and a pack of Boo Boo Kisses bandages. She also got a number of Splendid basics, some dresses and a pair of Converse sneakers. "Lots of springy, girly items," a source reports.

Despite being trailed by paparazzi, store staffers tried to keep things private. Fellow customers were asked to leave, the doors were locked and the shades pulled down. "She was proud of how she looked," the source says. "She was in great shape."

She then skipped over to Lisa Kline Kids, where she bought, among other things, brown Little Giraffe fur jackets, Wes and Willy shorts, Splendid camouflage pants and shirts, Ookies Bermuda shorts, Replay overalls and shirts, Charlie Rocket swimsuits, black Converse sneakers and a few Sassy Paci pacifier holders.

Spears also did some damage recently at Robertson Boulevard's Bel Bambini, where she picked up Tuni & G shirts for the boys inscribed with—ready for this?—"Don't Ya Wish Your Mommy Was Hot Like Mine?"

4/23/07 OK! Magazine National Publication (reaching over 9 million readers) with article about Britney Spears' purchasing Tuni & G's "don't ya wish your mommy was hot like mine?" and listing our website and photo of the shirt: <https://www.tuniandg.com/index.asp?PageAction=Custom&ID=22>



The logo for the magazine 'People' is displayed in white, bold, sans-serif capital letters against a solid black rectangular background.

8/23/07 **People.com (36,485,500 monthly visits)** features story about Paris Hilton purchasing Tuni & G's "don't ya wish your mommy was hot like mine?":

<http://www.people.com/people/article/0,,20053136,00.html>

Paris Hilton played good friend on Thursday – shopping for baby gifts for her pregnant pal Nicole Richie.

Hilton headed to the hot Hollywood boutique Intuition, perused the baby section and walked out with a dozen bags of merchandise full of goodies for the baby Richie is expecting with Joel Madden.

"She was in the best mood," a source tells PEOPLE. "She couldn't wait to get to the baby department and look for things for Nicole's baby. She said she was very happy for her."

Hilton was an equal-opportunity shopper, choosing gifts in both pink and blue. Among the items she bought was a Tuni & G Baby set (pants and T-shirt) with the text "Don't Ya Wish Your Mommy Was Hot Like Mine" with the pants bottom saying "Don't Ya." She also bought *Baby's First Fashion Words* book, a Baby Jar Baby Snuggler Blanket and Trumpette socks.

"She can't wait to hang out with the baby," says the source about Hilton. "She's happy Nicole is healthy and thinks she looks great."

Hilton, 26, told PEOPLE last week about Richie: "I know she's going to be the best mom ever."

In a series of interviews on ABC at the beginning of the month, Richie, 25, told Diane Sawyer that she is four months pregnant with musician-boyfriend Madden, 28.

People

12/07/07 **People.com** (36,485,500 monthly visits) runs story about J.Lo purchasing Tuni & G's "don't ya wish your mommy was hot like mine?" onesies with photos and linking to TunilandG.com:
<http://www.people.com/people/article/0,,20165048,00.html>

Jennifer Lopez Gets Pink and Blue Onesies



Jennifer Lopez is in full baby-gift mode, scoring matching pink and blue Tuni & G onesies from sister Lynda Lopez at Petit Tresor in Los Angeles.

Which raises the question: Could the singer and husband Marc Anthony be having ... a boy and a girl?

Lopez waited a while before even confirming the pregnancy – and the pop star has been mum about whether she's expecting twins, though multiple sources have told PEOPLE she's expecting two bundles of joy. The 38-year-old singer recently denied reports that she'd had a pregnancy health scare that forced her to cut back on touring.

12/10/07 **People Magazine** (reaching over 20 million readers) features Tuni & G's "don't ya wish your mommy was hot like mine?" as the perfect baby gift that "the stars are unwrapping":

<https://www.tuniandg.com/index.asp?PageAction=Custom&ID=34>

People
DECEMBER 10, 2007
DENNIS QUAID
BABY TWINS IN DANGER
After a shocking hospital error, the star and his wife, Kimberly, keep a tense vigil as their 3-week-old newborns struggle to recover.

VALERIE BERTINELLI LOST 40 LBS!

NEW ROMANCE!
Jessica & the Quarterback

EXCLUSIVE PICS
Miley's 15th Birthday Party!

THE YEAR IN BABIES

Brooke Shields goes for chic over cuties hosting a baby shower for pal Kim Raver

Shower Chic
As a second-time mom, Kim Raver knew what she wanted—and what she didn't—from her baby shower. "I did that cooking and baking the first time around," says Raver, 40, whose second son, Leo, joined brother Luke, 5, and her husband, filmmaker Marc Hoyer, on Oct. 9. "I wanted one that was really different." So, the many Hollywood moms, Raver and longtime friend Brooke Shields, who hosted the Sept. 27 fête, decided against a "typical Sunday shower" in favor of a sophisticated cocktail party. "People have more fun at evening showers," says celebrity party planner Colin Cowie, who decorated Shields's SoHo loft with green and purple instead of traditional pink and blue. "You can put on heels, get dressed up and go enjoy cocktails." "The party had to be earthy and sexy," adds Shields. "There's very little that's frilly about Kim!"

Great Baby Gifts
Here's what the stars are unwrapping

TUNI & G
Don't Ya Wish Your Mommy Was Hot Like Mine? set, \$60; TuniandG.com. Celeb fans: Brooke Shields, Nancy O'Dell.

BLABLA
Infant sandals, \$25-\$40; blabla.com/infant.html. Celeb fans: Adam Sandler, Tim Spallone.

BELLE BABY
Carrier, \$80; shop.lovellbaby.com. Celeb fans: Julie Roberts.

12/23/2007 **People Magazine** reaching 20 million readers around the world has article on J.Lo has Tuni & G's "don't ya wish your mommy was hot like mine?" onesies with the caption tagging Tuni & G on the first page of the article: <https://www.tuniandg.com/index.asp?PageAction=Custom&ID=34>

People
DECEMBER 24, 2007

REVENGE OF THE EXES
Who's Happy?
Who Can't Let Go?

JENNIFER LOPEZ
HERE COME TWINS!
BUYING FOR A BOY AND A GIRL

JESSICA ALBA
SHE'S PREGNANT!

RYAN PHILLIPPE **NICK LACHEY** **TOM BRADY**

MOMMY
from the **BLOCK**

From diva to domestic doyenne, expectant star Jennifer Lopez trades in her fast-paced life for nesting in the suburbs with Marc Anthony and preparing to greet her twins

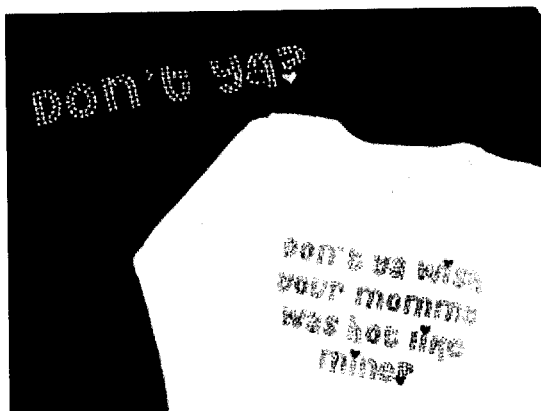
At the New York album release party for Jennifer Lopez's latest CD, *Brave*, in October, there was more than music to celebrate. When producer Swiss Beatnik grabbed a seat next to the queen of honor and her husband, Marc Anthony, in the VIP room, "Marc grabbed my hand and put it on her stomach," says the couple's longtime friend, who found out that night that the singer was going to be a mom. "She was glowing so bright and looking at me with the smile of an angel. I was just like, 'Wow! It's show time!'"

Not so much. Maybe the Jennifer Lopez of old would have made more of a media spectacle of her joyous baby news, but the woman formerly known as J.Lo has turned into J. Down Lo—ducking the spotlight and choosing to keep her pregnancy unannounced until the very end of her tour with Anthony last month. "The situation is very personal and they want to have their space," says Swiss Beatnik. "Jen wanted to be able to have a pregnancy without people going crazy." Some goes for her family—which will be doubling in size when she gives birth to twins early next year. (She's getting the best of both worlds: Multiple sources have confirmed to PEOPLE that the singer is expecting a boy and a girl.) The singer-actress-designer "has come to a different place in her life. Her career seemed to come first in her previous relationships," says a source close to the



8/27/07 ETonline.com (907,273 monthly visits) runs story about Paris Hilton purchasing Tuni & G's "don't ya wish your mommy was hot like mine?" for Nicole, showing Tuni & G's picture and linking to TunilandG.com:

<http://www.etonline.com/fashion/news/2007/08/49757/>



Find out which baby clothes Paris picked out for her "Simple Life" pal!

PARIS HILTON was spotted last Wednesday shopping at Hollywood hot spot Intuition and we know what she bought!

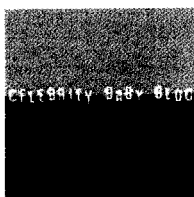
The sexy socialite was seen browsing baby clothes -- and picked up a dozen bags of items! Among them were the "Don't Ya Wish Your Mommy Was Hot Like Mine?" black rhinestone T-shirt and matching black "Don't Ya?" baby pants for pregnant pal **NICOLE RICHIE**, made by San Diego moms **TUNI AND G**. Stars like **DENISE RICHARDS**, **FELICITY HUFFMAN** and **BRITNEY SPEARS** are also obsessed with Tuni and G's cute and comfy line of matching tanks, tops and onesies. **PATRICK DEMPSEY** and his wife have the "Don't You Wish Your Daddy Was Dreamy Like Mine?" onesies for their newborn twins. You can buy them too in our ShopET store.

To go with the sets, Paris also picked up little black leather baby shoes.

When asked what she thought of the impending arrival of "The Simple Life" co-star **NICOLE RICHIE**'s baby with boyfriend **JOEL MADDEN**, she said, "I am very excited for her new baby."

So, does she know the sex of the incoming bundle of joy? Paris said she didn't know.

Once done shopping, the bags, 12 in all, literally filled her Bentley to the brim!



3/30/07 Celebrity Baby Blog (1,054,902 monthly visits) giveaway with article discussing Tuni & G's "don't ya wish your mommy was hot like mine?":

http://celebritybabies.typepad.com/reviews/2007/03/tuni_g_mommy_me.html

Tuni & G: Mommy & Me Clothing with a dose of cool



Mommy and Me clothing usually isn't synonymous with hip but in the case of **Tuni & G**, Mommy and Me is actually stylish.

One of the cutest things I have seen in a long time is this toddler outfit blazoned with the phrase "Don't ya wish your mommy was hot like mine?" across the front of the shirt and the words "Don't ya?" across the booty of the yoga pants. My matching hoodie also says "Don't ya?" The two times we have worn the clothing as a mom and daughter team Catie and I have been stopped over and over so that people can read our shirts.

Other cute phrases from the line include Boy Crazy (mom) and Crazy Boy (baby), My baby rolls (mom) and My mom rocks (baby) and It's from my side (mom) and Cutie (baby) among others. The line also offers maternity, adult and infant clothing as well.

Felicity Huffman's daughter was recently photographed wearing the "Don't ya wish your mommy was hot like mine?" shirt! **Trista** and **Ryan** from *The Bachelorette* were gifted with this set shortly after announcing their much-anticipated pregnancy. The same set, along with a Coming Soon to a Delivery Room Near You maternity tank, was personally handed to **Tori Spelling**! Other celebrities who style their family in **Tuni & G** sets include **Vanessa Laine Bryant** (**Kobe Bryant's** wife), **Bill Bellamy's** wife, **Kristen Baker**, **Jennie Garth**, **Melania Trump**, **Teri Hatcher** and **Joely Fischer**.

Check out the complete line at www.tuniandg.com.



ST. PATRICK'S GIRLS GUYS MUSIC DÉCOR FUN & GAMES LUV STUFF HORROR & FANTASY MY SPENCER'S

"Don't You Wish Your Mommy Was Hot Like Mine" Onesie



The pretty sure none of the Pussycat Dolls are mothers, but if they were, I would certainly wish that lots of mothers were MILF's like them. In any case, this hilarious onesie is perfect for your little one, plus it says that you moms out there are hot, so it's a win-win!

ASS KICKIN' SALE

Rock & Roll Rebellion

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PRODUCT REVIEWS

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Selected Size
Selected Quantity



(0 Ratings)

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JS 44 (Rev. 11/04)

ORIGINAL
CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Tuni & G, a California Partnership

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

The Law Office of Matthew A. Becker, PC
1003 Isabella Ave., Coronado, CA 92118 (619) 522-6760

DEFENDANTS

Spencer Gifts, LLC, Spencer Gifts Holding, LLC, and Spencer Gifts Online, LLC, all Delaware LLCs, and Does 1-10

County of Residence of First Listed Defendant San Diego
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. CP DEPUTY

Attorneys (If Known)

08 CV 0410 BTM JMA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC Section 1121

Brief description of cause:

Trademark Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/04/2008

SIGNATURE OF ATTORNEY OF RECORD

Matthew A. Becker

FOR OFFICE USE ONLY

RECEIPT #

148373

AMOUNT

350.00

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

**# 148373 - SR
* * C O P Y * *
March 04, 2008
13:18:40**

Civ Fil Non-Pris

USAO #: 08CV0410

Judge.: BARRY T MOSKOWITZ

Amount.: \$350.00 CK

Check#: BC#2832

Total-> \$350.00

**FROM: TUNI & G V. SPENCER GIFTS
CIVIL FILING**